



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 29, 1993

Mr. Conley C. Thompson
Executive Director
Comal County Juvenile Residential
Supervision and Treatment Center, Inc.
1414 West San Antonio Street
New Braunfels, Texas 78130-6202

OR93-704

Dear Mr. Thompson:

The Comal County Juvenile Residential Supervision and Treatment Center, Inc., ("Teen Connection") received an open records request asking for information regarding its employees. You ask whether this information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (formerly V.T.C.S. article 6252-17a).¹ In particular, you ask whether Teen Connection is a "governmental body" subject to the Open Records Act.² Your request was assigned ID# 21460.

¹We note that the Seventy-Third Legislature codified the Open Records Act as chapter 552 of the Government Code and repealed article 6252-17a, V.T.C.S. See Acts 1993, 73d Leg., ch. 268, §§ 1, 46. The codification of the Open Records Act in the Government Code is a nonsubstantive codification. *Id.* § 47.

²You also ask whether Teen Connection is a "governmental body" for purposes of the Open Meetings Act, chapter 551 of the Government Code. This office is not, however, authorized to address this question from you under either the Open Records Act or the Attorney General's authority to issue opinions. See Gov't Code §§ 402.042, 552.301(a); cf. *Kneeland v. National Collegiate Athletic Ass'n*, 650 F. Supp. 1064, 1072-73 (W.D. Tex. 1986), *rev'd on other grounds*, 850 F.2d 224 (5th Cir. 1988), *cert. denied*, 488 U.S. 1042 (1989). We do note, however, that the definition of "governmental body" under the Open Records Act is broader than the definition of "governmental body" under the Open Meetings Act. See Open Records Decision No. 491 (1988) at 4.

The definition of "governmental body" under the Open Records Act includes the following:

the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds.

Gov't Code § 552.003(a)(10). Public funds are funds of the state or a governmental subdivision of the state. Gov't Code § 552.003(c). In interpreting this language, this office has distinguished between entities receiving public funds in return for specific, measurable services and those receiving public funds for general support. Open Records Decision No. 602 (1992) at 4. If an entity has a specific and definite obligation to provide a measurable amount of service in exchange for a certain amount of public money, as would be expected in a typical arms-length contract for services between a vendor and purchaser, then the entity is not a governmental body for purposes of the Open Records Act. *Id.*; Open Records Decision No. 228 (1979) at 2.

You inform us that Teen Connection is a non-profit corporation that provides emergency shelter for youth and counseling services for youth and families. Both the Texas Youth Commission ("TYC") and the Texas Department of Protective and Regulatory Services ("TDPRS") contract with Teen Connection for shelter services. These contracts provide that the TYC and the TDPRS will pay a set price per day for each youth placed with Teen Connection. In addition, the TDPRS contracts with Teen Connection for counseling services. This contract is a cost-reimbursement contract, in which TDPRS agrees to reimburse Teen Connection for all actual and allowable costs incurred for specific services up to a preestablished limit. *See* 40 T.A.C. § 700.1705(b). You also inform us that Teen Connection receives federal grant money. However, this money comes directly from the Department of Health and Human Services; the state is not involved in awarding the grants or distributing the money.

We conclude that Teen Connection is not a governmental body for purposes of the Open Records Act. We believe that the arrangements between Teen Connection and TYC and between Teen Connection and TDPRS impose an obligation on Teen Connection to provide a measurable amount of service in return for a certain amount of state money. Furthermore, the federal grant money received by Teen Connection does not constitute funds of the state or a governmental subdivision of the state. Thus, Teen Connection is not an entity that is supported by public funds, and it is not required to comply with the Open Records Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open-records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in black ink, reading "Margaret A. Roll". The signature is written in a cursive, flowing style.

Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/AMS/rho

Ref.: ID# 21460

cc: Graciela Clarke
7127 Forest Pine
San Antonio, Texas 78240
(w/o enclosures)